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HRSC-SW Operating Procedure 12335.4a

Subj: MERIT PROMOTION

Ref: (a) 5 U.S.C. 2301
(b) 5 U.S.C. 2302(b)(12)
(c) 5 CFR Part 300
(d) 5 CFR Part 335
(e) CPI 335
(f) DoD Directive 1400.20, "DoD Program for Stability of Civilian Employment," Jul 98
(g) HRSC-SW-OP 12296.4, Routing Requests for Personnel Actions (RPAs), 30 Apr 02
(h) HRSC-SW-OP 12530.2a, Pay Setting, dated 02 Jan 04
(i) HRSC-SW OP 12337.3, Operating Procedures for DEU, 24 Mar 03

Encl: (1) Justification for Upgrade Resulting From the Addition of Duties and Responsibilities (Accretion of Duties)

1. **Purpose.** To establish procedures applicable to filling positions by merit promotion. These procedures also apply to other types of placement actions for which competitive and noncompetitive actions are taken in accordance with references (a) through (h). The procedures for filling jobs under the Delegated Examining Authority are found in reference (i). Where provisions of these procedures differ from negotiated agreements, the latter take precedence.

2. **Cancellations.** HRSC-SW-OP 12335.4 dated 22 Mar 2004.

3. **Scope.** These procedures apply to all activities serviced by the Human Resources Service Center, Southwest (HRSC-SW).

4. **Background.** References (a) through (d) provide the statutory and regulatory framework within which merit promotion programs must operate. It is the intent of HRSC-SW to maximize the flexibilities permitted under cited references.

5. **Policy.**

a. Per reference (c), merit promotion is but one staffing source for filling a position. Other means may be properly utilized concurrently or separately in order to meet the organization's needs and affirmative employment goals.

b. Positions will be filled from among the best qualified candidates available. Filling positions using merit promotion procedures requires the identification, qualification, evaluation, and selection of candidates be made without regard to political, religious, or labor organization affiliation, marital or family status, race, color, gender, age, national origin, sexual orientation, or non-disqualifying disability. The area of consideration must be sufficiently broad to ensure the availability of highly qualified candidates, taking into account the nature and level of the position covered. The competitive process must be based solely on job-related criteria as described below.

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c. Most recruitment actions are subject to mandatory provisions of one or more priority placement programs including: the Reemployment Priority List; the DoD Priority Placement Program (PPP); statutory rights of returning employees from overseas, military service, or Workers' Compensation; employees who have statutory placement rights administered by individual Human Resources/Site Offices; and Interagency Career Transition Assistance Plan (ICTAP). In addition, priority consideration is also given to candidates who were not given proper consideration in a competitive promotion action as determined by HRSC-SW (see paragraph 7.h. below).

d. Merit promotion referrals issued by the HRSC-SW have a due-date of 30 calendar days from date of issue and a 60-day expiration date. Upon request from the selecting official, the referral may be extended on a case-by-case basis in two-week increments for a period not-to-exceed 60 days from date of issue. After 60-days with no selection, the HRSC will collaborate with the manager/PMA regarding reasons for the delay and potential solutions. Inactive recruitment actions are subject to cancellation.

6. **Actions Subject to Merit Promotion Procedures.** Subject to the exceptions or exclusions listed in paragraph 7 below, competitive procedures apply to the following actions:

- a. Promotion or conversion to a higher graded position.
- b. Transfer or reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than that previously held on a permanent basis in the competitive service.
- c. Time-limited promotion for more than 120 days to higher graded position. Prior service during the preceding 12 months under non-competitive time-limited promotions and non-competitive details to higher graded positions count toward the 120 day total. A temporary promotion may be made permanent without further competition provided the temporary promotion :
 - (1) was originally made under competitive procedures and,
 - (2) the fact that it might lead to a permanent promotion was made known to potential candidates.
- d. Detail for more than 120 days to higher-graded position or to positions with known promotion potential.
- e. Reassignment or demotion to a position with more promotion potential than previously held in a permanent position (except as permitted by reduction-in-force regulations).
- f. Selection for training that is given primarily to prepare an employee for advancement and is required for promotion.
- g. Appointment and promotion of Veterans Employment Opportunity Act (VEOA) eligibles.

7. **Exceptions to Merit Promotion Procedures.** Eligible applicants from any of the following sources may be placed without a merit staffing referral from the HRSC-SW:

a. Statutory, regulatory, administrative placement, or placement by the direction of a higher authority are accomplished as instructed. Positions identified as having mandatory referral requirements (e.g., major claimant, Navy-wide, or Department of Defense-wide {DoD}) are filled under the provisions of applicable regulations;

b. Appointment under the provision of a special appointing authority. For example, Veterans Recruitment Appointment (VRA), 30-percent disabled veterans, applicants eligible under Executive Order (E.O.) 12721 or DoD/Office of Personnel Management (OPM) Personnel Interchange Agreement if the appointment is made to the same or lower graded position as that previously held;

c. Placement made during a reduction-in-force (RIF);

d. Conversion of employees on excepted appointment authorities such as: Schedule A for the physically or mentally disabled; VRA; Student Career Employment Program (SCEP); Navy Career Intern Program (NCIP); E.O. 12721;

e. Conversion to permanent appointment of eligible veterans with 30-percent or more disability who are serving on temporary or provisional appointment under 5 CFR 315.707;

f. Promotion to a grade previously held on a permanent basis in the competitive service or in equivalent system with which OPM has an interchange agreement;

g. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having no greater promotion potential than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service, or in another merit system with which OPM has an interchange agreement, from which an employee was separated or demoted for other than performance or conduct reasons;

h. Consideration of a candidate not given proper consideration in a competitive promotion action as specified in paragraph 12 below;

i. Temporary promotion or detail to a higher-graded position of 120 days or less. Prior service under all details or temporary promotions to higher-graded positions during the preceding 12 months is counted in determining whether the 120-day limit has been met. All regulatory and qualification requirements must be met prior to the effective date of the temporary promotion action. An employee does not need to meet time-in-grade or minimum qualification requirements (other than positive education requirements) to be detailed to another position;

j. A career-ladder promotion of an employee selected for a developmental position with a target grade higher than the entry position (the intended career progression and full performance level must be included on the initial notification of personnel record {SF-50}). The employee's

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performance must be satisfactory and the supervisor must recommend the promotion. All regulatory and qualification requirements are required to be met prior to the effective date of the promotion action;

k. A promotion resulting from an upgrade due to issuance of a new OPM classification standard or correction of a classification error;

l. A promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities. Management's proposal for such action must be submitted on a Request for Personnel Action (RPA) and submitted with a completed justification form, Enclosure (1), to support the use of this exception. For additional information on accretion of duties or planned management actions, visit the HRSC-SW region on the Department of Navy Civilian Human Resources web page at the following link:
<http://www.donhr.navy.mil/HRSC/southwest/localnews/Code50/Accretion.pdf>

8. **Responsibilities.**

a. **HRSC-SW Responsibilities:**

(1) Process recruitment actions in accordance with regulatory and statutory requirements. Incomplete RPAs received in the HRSC will be returned to the HRO. In addition, RPAs will be returned to the HRO when management requests a change in the condition of employment for recruitment actions (e.g., change recruitment request for a temporary position to a permanent position, permanent position to a temporary position, internal to external or change in geographic location of position, etc.).

(2) Identify and/or refine the essential and desired skills for a position with the Human Resources Office (HRO) and/or selecting official.

(3) Ensure recruitment sources are appropriate for filling the specific vacancy.

(4) Evaluate resumes to ensure applicants meet minimum eligibility and OPM/DoD qualification requirements. Qualification requirements also include the possession of satisfactory or "passed" performance appraisal, related education, training, and award(s) as required by references (a) and (b). Applicants must meet the qualification requirements by the date the evaluation occurs. Tentative eligibility determinations are made based on the information available in the resume at the time the evaluation occurs and is verified by the servicing HRSC-SW specialist after a tentative selection is made and prior to an extension of the final job offer.

(5) Issue merit promotion referral list of best qualified candidates and forward to the HRO representative and the selecting official/command liaison.

(6) Process merit promotion request for reconsideration of qualification and eligibility as specified in paragraph 11 below.

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(7) Adjudicate and process "missed consideration" complaints as specified in paragraph 12 below.

(8) Record Retention.

(a) Maintain records on each selection (except for Management Identification of Candidates {MIOC} cases which are retained by HRO or the selecting official) for a period of two years from the date the selectee entered on duty, the recruitment was cancelled, or after formal evaluation by OPM, whichever occurs first. These records will contain sufficient information to allow reconstruction of the merit promotion action.

(b) Merit promotion case files previously requested by the HRO or EEO office for retention will be forwarded to the applicable point of contact when the retention period has expired.

b. **HRO Responsibilities:**

(1) Provide advice and assistance to managers on appropriate sources for filling positions, to include information on applicable sections of the activity's Affirmative Employment Program Plan, proper use of essential and desired skills in the merit promotion process, and objective methods for evaluation and selection decisions.

(2) Provide advice and assistance to managers on exceptions to merit promotion procedures and accretion of duties. (See enclosure (1)).

(3) Identify and refer repromotion eligibles and/or any employee eligible for local priority consideration (e.g., as a result of a grievance, Equal Employment Opportunity, or Merit System Protection Board settlement, etc.) to the selecting official for consideration prior to submission of the RPA to the HRSC-SW. HROs may obtain qualification determination assistance for these employees by contacting their HRSC-SW representative.

(4) Advise management officials about PPP and other priority consideration programs and the potential impact on filling positions, and ensure all PPP exceptions are documented on the RPA with the applicable reference (f) citation.

(5) Provide advice and assistance to selecting officials and/or selection panel during the selection process, including the need for prompt action due to the 60-day expiration date of the referral (see paragraph 5.d.).

(6) Provide advice to employees and applicants on career opportunities, qualification requirements, and DON application process.

(7) Process merit staffing program grievances as specified in administrative or applicable negotiated grievance procedures.

(8) Notify the servicing HRSC-SW specialist, prior to the two-year expiration period, of the

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specific recruitment case file(s) that are required to be maintained for a longer period. The HRSC-SW will forward the file to the HRO for retention.

c. **Management Responsibilities:**

(1) Initiate and submit RPAs to the HRSC-SW for action. Detailed instructions and requirements for completing and routing RPAs are outlined in reference (g). Incomplete RPAs will be returned without action. In deciding which source or sources to use, determine which is most likely to meet the agency mission objectives, contribute fresh ideas and new viewpoints and meet the agency's affirmative action goals as required by section 335.103(b)(4) of reference (d).

(2) Provide prompt consideration of candidates referred by the HRO and/or HRSC.

(3) Interview candidates, if desired, and make timely selections upon receipt of referral from the HRSC-SW. In accordance with reference (e), interviews may be conducted with all, some, or none of the candidates. The selecting official should retain all interview and selection documentation for future reference or potential third party review resulting from an EEO complaint or grievance.

(4) Use objective methods and consider performance appraisals and awards in the selection process as required by section 335.103(b)(3) of reference (d).

(5) Annotate the referral to clearly indicate the candidates who were not available or no longer interested in the position and reason for the declination. Also indicate the name(s) of selectee(s) and alternate selectee(s), if any. Return signed and completed referral with all of the resumes to the HRSC-SW. Provide a copy to the servicing HRO representative, excepting the resumes.

(6) Complete necessary pay setting documentation in accordance with reference (h). All pay setting decisions and supporting documentation must be provided to the HRSC-SW no later than five working days prior to the selectee's entrance on duty (EOD) date. Retroactive adjustment for advanced in-hire rate, recruitment bonus, or relocation bonus cannot be made after the selectee enters on duty.

(7) Maintain records of each selection made under MIOC procedures for a period of two years from the date the selectee enters on duty, the recruitment is cancelled or after formal evaluation by OPM, whichever occurs first. These records must contain sufficient information to allow reconstruction of the merit promotion action. Refer to paragraph 10 below for detailed information on the MIOC recruitment process.

d. **Employee Responsibilities.**

(1) Submit a resume and obtain employee notices from the HRSC by following the guidance for Navy career opportunities at the website: www.donhr.navy.mil.

(2) Employees may request reconsideration of a rating or qualifications determinations under procedures set forth in paragraph 11 below, and/or file a complaint under the applicable local grievance or discrimination complaint procedures.

9. **Announcements.** In order to ensure that all applicants have an opportunity for placement or promotion consideration, including those employees absent for legitimate reasons, HRSC-SW uses open continuous announcements (OCA) to fill most positions.

a. A merit promotion referral will be issued to the selecting official if all highly qualified applicants available in the inventory meet the management identified recruitment criteria.

b. A Career Flyer is a separate announcement published to augment the pool of applicants when there are insufficient highly qualified applicants to meet projected recruitment needs. The decision to publish a Career Flyer rests with the HRSC-SW.

c. When there is no open OCA announcement, a separate announcement will be issued for the specific vacancy being recruited.

d. The type of announcement does not affect management's right to determine the appropriate Area of Consideration (AOC), nor does it change the minimum AOC requirements contained in collective bargaining agreements. The AOC is the source of applicants (e.g., internal merit promotion, VEOA, transfers, reinstatements, current DON employees, and interchange agreement, etc.) eligible for consideration for a specific vacancy. The AOC cannot be restricted to those who reside in a particular geographic area, rather, it includes all applicants who indicate availability for the geographic area of the vacancy.

e. Activities are encouraged to frequently remind employees that they should submit their resume for applicable announcements to receive consideration for vacancies.

10. **Procedures for Management Identification of Candidates (MIOC).** In accordance with reference (e), this option can be used to expedite the recruitment process. The criteria for using MIOC are provided below:

a. There must be sufficient, well-qualified, eligible candidates for the position. Employees considered eligible would normally include those in the same or related occupations at the next lower grade/level in the normal line of progression of the position being filled.

b. All candidates must be subordinates of the selecting official who must have direct knowledge of their work. In most cases, this means the selecting official will be the first line supervisor; however, the second or third level supervisor in the same work unit or organization may also use MIOC procedures.

c. To begin the MIOC process, the RPA needs to be submitted to the HRSC. Management needs to indicate in the notepad of the RPA that the MIOC process is being utilized and the specific area of the recruitment source (i.e., the unit, branch, division, department, etc.). After the PPP has been cleared, HRSC-SW will contact the HRO to confirm that the MIOC process may

begin.

d. Once notified by the HRO that the PPP is clear, the selecting official may either automatically consider all subordinates in the work unit or solicit interest in the position either verbally or in writing via memo or e-mail. In addition, the selecting official may request his/her employees submit a resume or other documentation to aid in the evaluation process.

e. If a solicitation is used, it must: 1) include a specific deadline to reply; 2) allow a reasonable period of time for interested employees to respond; and 3) automatically include employees on detail or temporary assignments in other areas, or on extended leave. A reasonable response period may be one day to one week depending on the area of consideration and dissemination means. Employees unable to be contacted must be considered interested and available and considered in the selection process. Only interested applicants need to respond. A negative response need not be required.

f. After the deadline to reply has passed, the candidate evaluation process may begin. Selecting Officials must evaluate each interested applicant against knowledge, skills, and abilities required in the position to be filled, e.g., knowledge of subject matter of the position, technical skill to perform the work, and ability to communicate the technical aspects of the work. In the evaluation process, consideration must be given to related experience, related training and education, related awards and the employee's performance record. Evaluation criteria must be consistently and fairly applied to all candidates and documented accordingly.

g. After selection is made and documented, the name of the tentative selectee must be provided to the HRO representative who will notify the HRSC-SW Specialist. The HRSC-SW specialist ensures the tentative selectee is qualified and eligible for the position and notifies the HRO of the results. Qualification and eligibility determination must be done before the selecting official announces decision or informs the selectee.

11. **Request for Reconsideration**. This process leads employees to believe the HRSC has final decision authority for qualification determinations. An applicant may request reconsideration of his/her resume. The request must be made in writing within 30 days from the date of the written or posted notice of qualification and eligibility and must indicate why he/she believes the original decision was not correct. Only information contained in the original resume can be considered. New or additional information will not be accepted.

a. The request must be submitted via the servicing HRO to the appropriate Code 53 Work Load Coordinator.

b. The Work Load Coordinator or other qualified HR Specialist (other than the original specialist who made the original qualifications determination) will conduct the reconsideration review and draft a response to the applicant. The written response will provide an explanation for the basis of the decision. The response will normally be provided within five workdays from the date the written request is received in HRSC-SW. The Code 53 or designee will sign the final decision letter. There is no further avenue of appeal.

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c. If the applicant's rating is revised and the revised rating would have resulted in his/her placement on the referral and a selection has not yet been made, an amended referral will be prepared and issued to the selecting official. If a selection has been made, the applicant will be notified of his/her eligibility for priority consideration.

12. **Priority Consideration**. Applicants may be given priority consideration when determined by Code 50 or designee that the applicant had an active resume in the HRSC-SW database and missed consideration for a specific position through no fault of their own. Priority consideration is the referral to the selecting official of that applicant's name alone, or in combination with any other recipients of priority consideration, before any other candidates are referred. Applicants who have missed consideration under these circumstances will be given priority consideration for the next like vacancy in the specified geographic location, qualification requirements, and conditions of employment of the position for which consideration was missed. Applicants will be notified in writing if and when such consideration is appropriate. Priority consideration is afforded for one year from the date of the HRSC-SW notice, or one priority consideration, whichever occurs first.

13. **Effective Date**: 07 June 2004

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**JUSTIFICATION FOR UPGRADE RESULTING FROM THE
ADDITION OF DUTIES AND RESPONSIBILITIES
(ACCRETION OF DUTIES)**

Incumbent: _____ **SSN:** _____

Old PD#: _____ **New PD#:** _____

Old Org Code: _____ **New Org Code:** _____

Current position title, series and grade: _____

New/recommended position title, series and grade: _____

1. CPI 335 and GAM #63 contain the DON criteria that supplement Chapter 23 of Title 5 U.S.C. and the CFR. The following DON criteria must be met to support the upgrade of a position resulting from the addition of duties and responsibilities:

a. The major duties of the employee's old position are absorbed into the new position, and the former position is cancelled. The new position is classified at a higher grade due to the addition of higher grade duties directly related to the primary purpose of the former position.

b. The new position has no known promotion potential.

c. The additional duties do not adversely affect another encumbered position. In other words, the higher level duties cannot be taken from another encumbered position resulting in the downgrade of that position or a reduction-in-force.

2. Such actions must meet the intent of Title 5, U.S.C. and result in the promotion of all employees assigned to that position; or the positions must be filled competitively (i.e., management identification of candidate, planned management action); or the situation must be reviewed for misassignments (possibly resulting in reassignments).

3. All parties participating in this process will be held accountable for the determinations made. The primary accountability lies with activity managers who control the assignment of work. The manager's role/responsibilities include providing required information for completion of Justification for Upgrade Resulting from the Addition of Duties and Responsibilities. Classification's role/responsibilities are to classify the position descriptions (identifying title, series, and grade) and/or coordinate MTP actions. The HRSC-SW role/responsibilities are to make qualification and PPP determinations, and to ensure the Chapter 23 of Title 5, United States Code and DON criteria are met in determining whether an exception or competition is needed/required to fill the position.

4. The upgrade of a position resulting from the addition of duties and responsibilities is not a technique to circumvent PPP placements. This type of noncompetitive promotion action involves joint discussions/processes with managers and the classifier (activity manager or HR specialist) and HRSC staffing specialists.

5. The following situations are considered inappropriate for consideration as upgrades resulting from additional duties and responsibilities: (1) transition from a one- grade interval position to a two- grade interval position; (2) accretion across occupational series; (3) movement to vacant higher level position; (4) accretion from an Identical Additional (IA) position; (5) accretion from a non-supervisory position to a supervisory position; (6) accretion from a non-leader position to a leader position; and (7) accretion across organizational lines.

6. The concept of upgrading a position due to the addition of duties and responsibilities implies that major changes have taken place in a position in the form of higher level, more complex duties that are directly related to the primary purpose of the position being replaced, and that the employee will also continue to perform most or all of the duties

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of the former position. If you have specifically identified that such is the case, the following questions must be addressed on a separate page to explain what events caused the position to be redescribed and recommended for classification/classified at a higher grade.

1. Where did the new, additional duties come from?
2. How long has the employee been performing the additional duties?
3. What were the reasons for assignment of the additional duties, i.e., vacant position/billet -civilian or military; reorganization; new programs/projects/mission requirements mandated from major claimant level or above; new technology, etc.?
4. Are other employees occupying the same position? If so, why was this individual assigned the duties?
5. How long has the incumbent occupied this position?
6. What were the primary duties of the old position?
7. Could you as the manager have reasonably known that the additional duties were of a higher level before they were assigned?
8. Did the position remain in the same organization and retain the same supervisor?

Supervisor

Date

HRO Representative

Date

Enclosure (1)